

CHAPTER 130

MENTAL HEALTH ADVOCATES AND INVOLUNTARY COMMITMENTS

S.F. 406

AN ACT relating to involuntary commitments for persons with substance-related disorders, mental illness, and intellectual disabilities, and providing for the creation of a mental health advocate division in the department of inspections and appeals and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

**DIVISION I*

DEPARTMENTAL RESPONSIBILITY FOR MENTAL HEALTH ADVOCATES

Section 1. NEW SECTION. 10A.901 Definitions.

As used in this article, unless the context otherwise requires:

1. “Administrator” means the person coordinating the administration of this division.
2. “Division” means the mental health advocate division of the department of inspections and appeals.

Sec. 2. NEW SECTION. 10A.902 Duties of administrator.

The administrator shall administer the division’s conduct of the mental health advocate program as provided by section 229.19 and other applicable law. The person appointed as administrator must meet the qualifications to be appointed as a mental health advocate. The administrator’s duties may include but are not limited to all of the following:

1. *Appointing persons to serve as mental health advocates and other division staff and identifying qualifications for persons serving as a mental health advocate. A mental health advocate serving as of June 30, 2013, shall be deemed to be qualified. The minimum qualifications for a mental health advocate whose initial appointment commences on or after July 1, 2013, shall be a bachelor’s degree from an accredited school, college, or university in social work, counseling, human services, health, nursing, or psychology, and one year of experience in the provision of mental health services. A person who is a licensed registered nurse pursuant to chapter 152 who is current with applicable continuing education requirements shall be deemed to have met the minimum experience requirement.*

2. *Training and supervising division staff.*

3. *Implementing procedures for appointing, dismissing, and supervising advocates and for reassigning advocate responsibilities based on the location of the patient’s placement or other patient need. The court shall be notified of any reassignment. The procedures for appointing a person to a vacant mental health advocate position assigned to a geographic area shall require the person appointed to the vacant position to reside within the assigned geographic area.*

4. *Administering program additions and expansions, including providing advocate services for persons with a substance-related disorder and persons found not guilty by reason of insanity, if such additions or expansions are authorized and funded.*

5. *Developing and implementing a case weight system for use in appointing and compensating advocates.*

6. *Administering case reviews and audits.*

7. *Implementing a uniform description of the duties of a mental health advocate, based upon the best practices developed and promulgated by the judicial council pursuant to section 229.19, subsection 1, paragraph “c”.*

Sec. 3. TRANSITION.

1. *The department of inspections and appeals shall commence organizational activities during the fiscal year beginning July 1, 2013, as necessary to fully implement this division and*

* Item veto; see message at end of the Act

assume responsibility for mental health advocates as provided in this division and division II of this Act on July 1, 2014.

2. If necessary for the purposes of subsection 1, the department of inspections and appeals may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of division II of this Act on July 1, 2014, and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

DIVISION II IMPLEMENTATION — MENTAL HEALTH ADVOCATES

Sec. 4. Section 225C.4, subsection 1, paragraph m, Code 2013, is amended to read as follows:

m. Provide consultation and technical assistance to patients' mental health advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the department of inspections and appeals, and to the resident advocate committees appointed for health care facilities pursuant to section 135C.25.

Sec. 5. Section 226.31, Code 2013, is amended to read as follows:

226.31 Examination by court — notice.

Before granting the order authorized in section 226.30 the court or judge shall investigate the allegations of the petition and before proceeding to a hearing on the allegations shall require notice to be served on the attorney who represented the patient in any prior proceedings under sections 229.6 to 229.15 ~~or the~~ and to any mental health advocate appointed for the patient under section 229.19, or in the case of a patient who entered the hospital voluntarily, on any relative, friend, or guardian of the person in question of the filing of the application. At the hearing the court or judge shall appoint a guardian ad litem for the person, if the court or judge deems such action necessary to protect the rights of the person. The guardian ad litem shall be a practicing attorney.

Sec. 6. Section 229.2, subsection 1, paragraph b, subparagraph (6), Code 2013, is amended to read as follows:

(6) Upon approval of the admission of a minor over the minor's objections, the juvenile court shall appoint an individual to act as an advocate representing the interests of the minor in the same manner as ~~an~~ a mental health advocate representing the interests of patients involuntarily hospitalized pursuant to in accordance with section 229.19.

Sec. 7. Section 229.9A, Code 2013, is amended to read as follows:

229.9A Advocate Mental health advocate informed — hearings.

The court shall direct the clerk to furnish the mental health advocate ~~of the respondent's county of legal settlement~~ designated for the court by the department of inspections and appeals with a copy of application and any order issued pursuant to section 229.8, subsection 3. ~~The mental health advocate designated for the court may attend the hospitalization any court hearing of any involving the respondent for whom the advocate has received notice of a hospitalization hearing.~~

Sec. 8. Section 229.12, subsection 2, Code 2013, is amended to read as follows:

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the mental health advocate ~~from the respondent's county of legal settlement designated for the court by the department of inspections and appeals~~ to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that witness's testimony is likely to cause the respondent severe emotional trauma.

Sec. 9. Section 229.14A, subsection 1, Code 2013, is amended to read as follows:

1. With respect to a chief medical officer's report made pursuant to section 229.14, subsection 1, paragraph "b", "c", or "d", or any other provision of this chapter related to involuntary commitment for which the court issues a placement order or a transfer of placement is authorized, the court shall provide notice to the respondent, ~~and the respondent's attorney or, and any mental health advocate appointed for the respondent pursuant to section 229.19 concerning the placement order and the respondent's right to request a placement hearing to determine if the order for placement or transfer of placement is appropriate.~~

Sec. 10. Section 229.14A, subsection 5, paragraph c, Code 2013, is amended to read as follows:

c. If the respondent's attorney has withdrawn pursuant to section 229.19, the court shall appoint an attorney for the respondent in the manner described in section 229.8, subsection 1.

Sec. 11. Section 229.15, subsection 6, Code 2013, is amended to read as follows:

6. Upon receipt of any report required or authorized by this section the court shall furnish a copy to the patient's attorney, ~~or alternatively~~ and to the mental health advocate appointed as required by section 229.19 for the patient. The court shall examine the report and take the action thereon which it deems appropriate. Should the court fail to receive any report required by this section or section 229.14 at the time the report is due, the court shall investigate the reason for the failure to report and take whatever action may be necessary in the matter.

Sec. 12. Section 229.19, Code 2013, is amended to read as follows:

229.19 Advocates Mental health advocates — duties — compensation — ~~state and county liability.~~

1. a. ~~In each county with a population of three hundred thousand or more inhabitants the board of supervisors shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to persons with mental illness, to act as an advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. In each county with a population of under three hundred thousand inhabitants, the chief judge of the judicial district encompassing the county shall appoint the advocate. For the purposes of this section, "division" means the mental health advocate division of the department of inspections and appeals.~~

b. ~~The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient's county of legal settlement to represent the interests of the patient. If a patient has no county of legal settlement, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient.~~

c. ~~The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if~~

b. If the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and a mental health advocate shall be assigned to appointed for the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and. The court shall notify the division of the court's finding and the division shall appoint an advocate for the patient. The advocate's responsibility with respect to a patient shall begin when the advocate is appointed for the patient. The attorney representing the patient shall automatically be relieved of responsibility at the conclusion of the hearing unless the attorney requests to continue representation and the court so directs authorizes the attorney to remain on the case. If the court directs the attorney to remain on the case, the

~~attorney shall assume all the duties of an advocate~~ cooperate with the advocate appointed for the patient. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal or continuation of the attorney and shall inform the patient of the name of the patient's advocate.

~~d. c.~~ With regard to each patient ~~whose interests the~~ for whom a mental health advocate is required to represent appointed pursuant to this section, the advocate's duties shall include all of the following:

- (1) To review each report submitted pursuant to sections 229.14 and 229.15.
- (2) ~~If the advocate is not an attorney, to~~ To advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.
- (3) To be readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.
- (4) To visit the patient within fifteen days of the patient's commitment and periodically thereafter.
- (5) To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.
- (6) To file with the court ~~and the division~~ quarterly reports, and additional reports as the advocate feels necessary or as required by the ~~court division~~ division, in a form prescribed by the ~~court~~ division. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.
- (7) To utilize the related best practices for the duties identified in this paragraph "d" "c" developed and promulgated by the judicial council.

~~e. d. A~~ Subject to the availability of funding appropriated for this purpose, a mental health advocate may also be appointed pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and substance-related substance-related disorder.

2. The hospital or facility to which a patient is committed shall grant all reasonable requests of the patient's mental health advocate to visit the patient, to communicate with medical personnel treating the patient, and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

3. ~~The court or, if the advocate is appointed by the county board of supervisors, the board division shall prescribe~~ provide reasonable compensation for the services of the advocate in accordance with section 10A.902. ~~The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board division shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered in the manner prescribed by the county board of supervisors. If that person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered in substantially the same manner prescribed by the county board of supervisors as provided in section 815.9.~~

Sec. 13. Section 229.25, subsection 1, paragraph a, subparagraph (1), Code 2013, is amended to read as follows:

(1) The information is requested by a licensed physician, attorney, or the mental health advocate ~~who provides~~ appointed for the person. The requester must provide the chief medical officer with a written waiver signed by the person about whom the information is sought.

Sec. 14. APPOINTMENT OF MENTAL HEALTH ADVOCATES. The persons appointed to provide mental health advocate services under section 229.19 immediately prior to July 1, 2014, shall be appointed as mental health advocates pursuant to section 10A.902, effective July 1, 2014.

*Sec. 15. EFFECTIVE DATE. This division of this Act takes effect July 1, 2014.**

DIVISION III INVOLUNTARY COMMITMENTS — PERSONS WITH INTELLECTUAL DISABILITIES

Sec. 16. Section 48A.2, subsection 3, Code 2013, is amended to read as follows:

3. “Person who is incompetent to vote” means a person with an intellectual disability who has been found to lack the mental capacity to vote in a proceeding held pursuant to section ~~222.31~~ or 633.556.

Sec. 17. Section 222.6, Code 2013, is amended to read as follows:

222.6 State districts.

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions ~~or commitments~~ of persons with an intellectual disability from a district shall be to the resource center located within such district.

Sec. 18. Section 222.12, subsection 2, Code 2013, is amended to read as follows:

2. Notice of the death of the patient, and the cause of death, shall be sent to the county board of supervisors ~~and to the judge of the court that had jurisdiction over a committed patient~~. The fact of death with the time, place, and alleged cause shall be entered upon the docket of the court.

Sec. 19. Section 222.15, subsection 3, Code 2013, is amended by striking the subsection.

Sec. 20. Section 222.59, subsection 3, Code 2013, is amended by striking the subsection.

Sec. 21. Section 222.60, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

All necessary and legal expenses for the cost of admission ~~or commitment~~ or for the treatment, training, instruction, care, habilitation, support and transportation of persons with an intellectual disability, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 22. Section 222.61, Code 2013, is amended to read as follows:

222.61 Legal settlement determined.

When a county receives an application on behalf of any person for admission to a resource center or a special unit ~~or when a court issues an order committing any person to a resource center or a special unit~~, the board of supervisors shall utilize the central point of coordination process to determine and certify that the legal settlement of the person is in one of the following:

1. In the county in which the application is received ~~or court is located~~.
2. In some other county of the state.
3. In another state or in a foreign country.
4. Unknown.

* Item veto; see message at end of the Act

Sec. 23. Section 222.64, Code 2013, is amended to read as follows:

222.64 Foreign state or country or unknown legal settlement.

If the legal settlement of the person is determined by the board of supervisors through the central point of coordination process to be in a foreign state or country or is determined to be unknown, the board of supervisors shall certify the determination to the administrator. The certification shall be accompanied by a copy of the evidence supporting the determination. The care of the person shall be as arranged by the board of supervisors or by an order as the court may enter. Application for admission ~~or order of commitment~~ may be made pending investigation by the administrator.

Sec. 24. Section 222.67, Code 2013, is amended to read as follows:

222.67 Charge on finding of settlement.

If a person has been received into a resource center or a special unit as a patient whose legal settlement is supposedly outside the state or is unknown and the administrator determines that the legal settlement of the patient was at the time of admission ~~or commitment~~ in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission ~~or commitment~~ and support of the patient to the county of legal settlement. The certification shall be sent to the county of legal settlement. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person's legal settlement status has been determined in accordance with section 225C.8, the legal costs and expenses shall be charged to the county or as a state case in accordance with that determination. The costs and expenses shall be collected as provided by law in other cases.

Sec. 25. Section 222.68, Code 2013, is amended to read as follows:

222.68 Costs paid in first instance.

All necessary and legal expenses for the cost of admission ~~or commitment~~ of a person to a resource center or a special unit when the person's legal settlement is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted ~~or committed~~. The county of legal settlement shall reimburse the county which pays for all such expenses. Where any county fails to make such reimbursement within forty-five days following submission of a properly itemized bill to the county of legal settlement, a penalty of not greater than one percent per month on and after forty-five days from submission of the bill may be added to the amount due.

Sec. 26. Section 222.69, Code 2013, is amended to read as follows:

222.69 Payment by state.

All necessary and legal expenses for the cost of admission ~~or commitment~~ of a person to a resource center or a special unit when the person's legal settlement is outside this state or is unknown shall be paid out of any money in the state treasury not otherwise appropriated. Such payments shall be made on itemized vouchers executed by the auditor of the county from which the expenses have been paid and approved by the administrator.

Sec. 27. Section 222.70, Code 2013, is amended to read as follows:

222.70 Legal settlement disputes.

If a dispute arises between counties or between the department and a county as to the legal settlement of a person admitted ~~or committed~~ to a resource center, a special unit, or a community-based service, the dispute shall be resolved as provided in section 225C.8.

Sec. 28. Section 222.78, Code 2013, is amended to read as follows:

222.78 Parents and others liable for support.

The father and mother of any patient admitted ~~or committed~~ to a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall

not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with an intellectual disability.

Sec. 29. Section 222.80, Code 2013, is amended to read as follows:

222.80 Liability to county.

A person admitted or committed to a county institution or home or admitted or committed at county expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with an intellectual disability shall be liable to the county for the reasonable cost of the support as provided in section 222.78.

Sec. 30. Section 222.91, Code 2013, is amended to read as follows:

222.91 Direct referral to special unit.

In addition to any other manner of referral, ~~or admission, or commitment~~ to the special unit provided for by this chapter, persons may be referred directly to the special unit by courts, law enforcement agencies, or state penal or correctional institutions for services under ~~subsection 2 of section 222.88, subsection 2;~~ but persons so referred shall not be admitted or committed unless a preadmission diagnostic evaluation indicates that the person would benefit from such services, and the admission or commitment of the person to the special unit would not cause the special unit's patient load to exceed its capacity.

Sec. 31. Section 232.51, Code 2013, is amended to read as follows:

232.51 Disposition of child with mental illness or an intellectual disability.

1. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings in the juvenile court shall adhere to the requirements of chapter 229.

~~2. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child has an intellectual disability, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings shall adhere to the requirements of chapter 222.~~

3. ~~2.~~ a. If prior to the adjudicatory or dispositional hearing on the pending delinquency petition, the child is committed as a child with a mental illness ~~or an intellectual disability~~ and is ordered into a residential facility, institution, or hospital for inpatient treatment, the delinquency proceeding shall be suspended until such time as the juvenile court either terminates the civil commitment order or the child is released from the residential facility, institution, or hospital for purposes of receiving outpatient treatment.

b. During any time that the delinquency proceeding is suspended pursuant to this subsection, any time limits for speedy adjudicatory hearings and continuances shall be tolled.

c. This subsection shall not apply to waiver hearings held pursuant to section 232.45.

Sec. 32. Section 331.756, subsection 42, Code 2013, is amended by striking the subsection.

Sec. 33. Section 602.8102, subsections 36 and 37, Code 2013, are amended by striking the subsections.

Sec. 34. REPEAL. Sections 222.16 through 222.33, sections 222.36 through 222.49, section 222.51, and sections 222.54 through 222.58, Code 2013, are repealed.

Sec. 35. EFFECTIVE DATE. This division of this Act takes effect July 1, 2014.

DIVISION IV
INVOLUNTARY COMMITMENTS —
SUBSTANCE-RELATED DISORDERS AND MENTAL ILLNESS

Sec. 36. NEW SECTION. **125.74A Preapplication screening assessment — program.**

Prior to filing an application pursuant to section 125.75, the clerk of the district court or the clerk's designee shall inform the interested person referred to in section 125.75 about the option of requesting a preapplication screening assessment through a preapplication screening assessment program, if available. The state court administrator shall prescribe practices and procedures for implementation of the preapplication screening assessment program.

Sec. 37. Section 125.75, Code 2013, is amended to read as follows:

125.75 Involuntary commitment or treatment — application Application.

1. Proceedings for the involuntary commitment or treatment of a person with a substance-related disorder to a facility pursuant to this chapter or for the involuntary hospitalization of a person pursuant to chapter 229 may be commenced by the county attorney or an any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application.

2. The application shall:

1. a. State the applicant's belief that the respondent is a person with a substance-related disorder who presents a danger to self or others and lacks judgmental capacity due to either of the following:

(1) A substance-related disorder as defined in section 125.2.

(2) A serious mental impairment as defined in section 229.1.

2. b. State any other pertinent facts in support of each belief described in paragraph "a".

3. c. Be accompanied by one or more of the following:

a. (1) A written statement of a licensed physician in support of the application.

b. (2) One or more supporting affidavits corroborating the application.

e. (3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either paragraph "a" subparagraph (1) or paragraph "b" (2).

3. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 125.74A.

4. The supreme court shall prescribe rules and establish forms as necessary to carry out the provisions of this section.

Sec. 38. Section 125.75A, Code 2013, is amended to read as follows:

125.75A Involuntary commitment or treatment of proceedings — minors — jurisdiction.

The juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application for ~~involuntary commitment or treatment~~ is filed under section 125.75. In proceedings under this division concerning a minor's involuntary commitment or treatment, the term "court", "judge", or "clerk" means the juvenile court, judge, or clerk.

Sec. 39. Section 125.77, Code 2013, is amended to read as follows:

125.77 Service of notice.

Upon the filing of an application for ~~involuntary commitment~~ pursuant to section 125.75, the clerk shall docket the case and immediately notify a district court judge, a district associate judge, or magistrate who is admitted to the practice of law in this state, who

shall review the application and accompanying documentation. The clerk shall send copies of the application and supporting documentation, together with the notice informing the respondent of the procedures required by this division, to the sheriff, for immediate service upon the respondent. If the respondent is taken into custody under section 125.81, service of the application, documentation, and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 40. Section 125.78, unnumbered paragraph 1, Code 2013, is amended to read as follows:

As soon as practical after the filing of an application ~~for involuntary commitment or treatment pursuant to section 125.75~~, the court shall:

Sec. 41. Section 125.79, Code 2013, is amended to read as follows:

125.79 Respondent's attorney informed.

The court shall direct the clerk to furnish at once to the respondent's attorney, copies of the application ~~for involuntary commitment of the respondent pursuant to section 125.75~~ and the supporting documentation, and of the court's order issued pursuant to section 125.78, subsection 3. If the respondent is taken into custody under section 125.81, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings and shall attend the commitment hearing.

Sec. 42. Section 229.5, Code 2013, is amended to read as follows:

229.5 Departure without notice.

If a voluntary patient departs from the hospital without notice, and in the opinion of the chief medical officer the patient is seriously mentally impaired, the chief medical officer may file an application ~~for involuntary hospitalization of~~ on the departed voluntary patient pursuant to section 229.6, and request that an order for immediate custody be entered by the court pursuant to section 229.11.

Sec. 43. Section 229.5A, Code 2013, is amended to read as follows:

229.5A Preapplication screening assessment — program.

Prior to filing an application ~~for involuntary hospitalization pursuant to section 229.6~~, the clerk of the district court or the clerk's designee shall inform the interested person referred to in section 229.6, subsection 1, about the option of requesting a preapplication screening assessment through a preapplication screening assessment program, if available. The state court administrator shall prescribe practices and procedures for implementation of the preapplication screening assessment program.

Sec. 44. Section 229.6, Code 2013, is amended to read as follows:

229.6 Application for order of involuntary hospitalization.

1. Proceedings for the involuntary hospitalization of an individual pursuant to this chapter or for the involuntary commitment or treatment of a person with a substance-related disorder to a facility pursuant to chapter 125 may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The clerk, or the clerk's designee, shall assist the applicant in completing the application.

2. The application shall:

a. State the applicant's belief that the respondent is ~~seriously mentally impaired~~, a person who presents a danger to self or others and lacks judgmental capacity due to either of the following:

(1) A substance-related disorder as defined in section 125.2.

(2) A serious mental impairment as defined in section 229.1.

b. State ~~any other pertinent facts in support of each belief described in paragraph "a"~~.

c. Be accompanied by any of the following:

(1) A written statement of a licensed physician in support of the application.

(2) One or more supporting affidavits otherwise corroborating the application.

(3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to comply with, or when the

clerk considers it appropriate to supplement the information supplied pursuant to, either subparagraph (1) or (2).

2. 3. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 229.5A.

4. The supreme court shall prescribe rules and establish forms as necessary to carry out the provisions of this section.

Sec. 45. Section 229.6A, subsection 1, Code 2013, is amended to read as follows:

1. Notwithstanding section 229.11, the juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application ~~for involuntary admission~~ is filed under section 229.6 or for whom an application for voluntary admission is made under section 229.2, subsection 1, to which the minor objects. In proceedings under this chapter concerning a minor, notwithstanding section 229.11, the term “court”, “judge”, or “clerk” means the juvenile court, judge, or clerk.

Sec. 46. Section 229.7, Code 2013, is amended to read as follows:

229.7 Service of notice upon respondent.

Upon the filing of an application ~~for involuntary hospitalization~~ pursuant to section 229.6, the clerk shall docket the case and immediately notify a district court judge, district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. If the application is adequate as to form, the court may set a time and place for a hearing on the application, if feasible, but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The court shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or the sheriff's deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11, service of the application, documentation and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 47. Section 229.8, unnumbered paragraph 1, Code 2013, is amended to read as follows:

As soon as practicable after the filing of an application ~~for involuntary hospitalization~~ pursuant to section 229.6, the court shall:

Sec. 48. Section 229.9, Code 2013, is amended to read as follows:

229.9 Respondent's attorney informed.

The court shall direct the clerk to furnish at once to the respondent's attorney copies of the application ~~for involuntary hospitalization of the respondent~~ filed pursuant to section 229.6 and the supporting documentation, and of the court's order issued pursuant to section 229.8, subsection 3. If the respondent is taken into custody under section 229.11, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings, and shall attend the hospitalization hearing.

Sec. 49. Section 229.21, subsection 2, Code 2013, is amended to read as follows:

2. When an application for involuntary hospitalization ~~under this chapter~~ or an application for involuntary commitment or treatment of persons with substance-related disorders under sections section 229.6 or 125.75 to 125.94 is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge, district associate judge, or magistrate who is admitted to the practice of law in this state is accessible, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 125.77. The referee shall discharge all of the duties imposed upon the court by sections 229.7 to 229.22 or sections 125.75 to 125.94 in the proceeding so initiated. Subject to the provisions of subsection 4, orders issued by a referee, in discharge of duties imposed under this section, shall have the same force and effect as if ordered by a district judge. However, any commitment to a facility regulated and operated under chapter 135C shall be in accordance with section 135C.23.

Sec. 50. Section 229.22, subsection 2, paragraph a, Code 2013, is amended to read as follows:

a. (1) In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure the person's self or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility or hospital as defined in section 229.11, subsection 1, paragraphs "b" and "c". A person believed mentally ill, and likely to injure the person's self or others if not immediately detained, may be delivered to a facility or hospital by someone other than a peace officer.

(2) Upon delivery of the person believed mentally ill to the facility or hospital, the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue.

(3) The peace officer who took the person into custody, or other party who brought the person to the facility or hospital, shall describe the circumstances of the matter to the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner. If the person is a peace officer, the peace officer may do so either in person or by written report.

(4) If the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure the person's self or others if not immediately detained, the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. For purposes of this subparagraph, the findings of the examining physician assistant must be approved by the examining physician assistant's supervising physician before the examining physician assistant communicates with the nearest available magistrate.

(5) The magistrate shall, based upon the circumstances described by the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner, give the examining physician, examining physician assistant, or examining psychiatric advanced registered nurse practitioner oral instructions either directing that the person be released forthwith or authorizing the person's detention in an appropriate facility. A peace officer from the law enforcement agency that took the person into custody, if available, during the communication with the magistrate, may inform the magistrate that an arrest warrant has been issued for or charges are pending against the person and request that any oral or written order issued under this subsection require the facility or hospital to notify the law enforcement agency about the discharge of the person prior to discharge. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

Sec. 51. Section 229.22, subsection 3, Code 2013, is amended to read as follows:

3. The chief medical officer of the facility or hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours from the time such order is dated, excluding Saturdays, Sundays and holidays, unless the order is sooner dismissed by a magistrate. The facility or hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to the person's self or others if allowed to continue, but may not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility or hospital and released from custody not later than the expiration of that period, unless an application for the ~~person's involuntary hospitalization~~ is sooner filed with the clerk pursuant to section 229.6. Prior to such discharge the facility or hospital shall, if required by this section, notify the law enforcement agency requesting such notification about the discharge of the person. The law enforcement agency shall retrieve the person no later than six hours after notification

from the facility or hospital but in no circumstances shall the detention of the person exceed the period of time prescribed for detention by this subsection. The detention of any person by the procedure and not in excess of the period of time prescribed by this section shall not render the peace officer, physician, facility, or hospital so detaining that person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician, facility, or hospital had reasonable grounds to believe the person so detained was mentally ill and likely to physically injure the person's self or others if not immediately detained, or if the facility or hospital was required to notify a law enforcement agency by this section, and the law enforcement agency requesting notification prior to discharge retrieved the person no later than six hours after the notification, and the detention prior to the retrieval of the person did not exceed the period of time prescribed for detention by this subsection.

Sec. 52. Section 229.24, subsection 1, Code 2013, is amended to read as follows:

1. All papers and records pertaining to any involuntary hospitalization or application ~~for involuntary hospitalization pursuant to section 229.6~~ of any person under this chapter, whether part of the permanent record of the court or of a file in the department of human services, are subject to inspection only upon an order of the court for good cause shown.

Sec. 53. Section 229.27, subsection 2, Code 2013, is amended to read as follows:

2. The applicant may, in initiating a petition ~~for involuntary hospitalization of a person~~ under section 229.6 or at any subsequent time prior to conclusion of the involuntary hospitalization proceeding, also petition the court for a finding that the person is incompetent by reason of mental illness. The test of competence for the purpose of this section shall be whether the person possesses sufficient mind to understand in a reasonable manner the nature and effect of the act in which the person is engaged; the fact that a person is mentally ill and in need of treatment for that illness but because of the illness lacks sufficient judgment to make responsible decisions with respect to the person's hospitalization or treatment does not necessarily mean that that person is incapable of transacting business on any subject.

Sec. 54. Section 602.1209, subsection 16, Code 2013, is amended to read as follows:

16. Prescribe practices and procedures for the implementation of the preapplication screening assessment program referred to in ~~section~~ sections 125.75A and 229.5A.

Sec. 55. REPEAL. Sections 125.75B and 229.2A, Code 2013, are repealed.

Sec. 56. STUDY — BED AVAILABILITY TRACKING SYSTEM. The department of human services shall conduct a study regarding the possible development of a hospital bed tracking system in order to most efficiently and effectively serve the needs of persons suffering from mental illness. The department shall submit a report of the study and make recommendations to the governor and the general assembly by December 16, 2013.

Approved June 20, 2013, with exceptions noted.

TERRY E. BRANSTAD, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 406, an Act relating to involuntary commitments for persons with substance-related disorders, mental illness, and intellectual disabilities, and providing for the creation of a mental health advocate division in the department of inspections and appeals and including effective date provisions.

Senate File 406 is approved on this date with the following exception, which I hereby disapprove.

I am unable to approve of the item designated as Divisions I and II in their entirety. This item establishes new positions of mental health advocates within the Iowa Department of

Inspections and Appeals. Currently, these advocates work at the county level. In the newly redesigned mental health and disability services system, it is best for these positions to remain at the local level where services will be managed and delivered regionally. I look forward to continuing to work with the House and Senate on implementing Mental Health redesign in a manner that best serves Iowans and fits within my goals for efficient and effective state government.

For the above reasons, I respectfully disapprove the designated item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 406 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*